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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FACEBOOK, INC. a Delaware corporation, Plaintiff, v. STEVEN RICHTER, Defendant.	CASE NO. 5:10-CV-4710 LHK **ANSWER** **DEMAND FOR JURY TRIAL** **[Electronic signatures permitted]**

Defendant, STEVEN RICHTER (hereinafter referred to as "Mr. Richter"), files this Answer to the Complaint of plaintiff, FACEBOOK, INC. (hereinafter referred to as "Facebook"), as follows:

I. INTRODUCTION

1. In response to Paragraph 1 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

II. PARTIES

2. In response to Paragraph 2 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

3. In response to Paragraph 3 of the Complaint, Mr. Richter admits that he is a resident of Kings Park, NY.

III. JURISDICTION AND VENUE

4. In response to Paragraph 4 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

5. In response to Paragraph 5 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

6. In response to Paragraph 6 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

7. In response to Paragraph 7 of the Complaint, Mr. Richter admits that, as a Facebook user, he accessed Facebook servers. Except as so specifically admitted, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

8. In response to Paragraph 8 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

IV. INTRA-DISTRICT ASSIGNMENT

9. In response to Paragraph 9 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

V. FACTS AND BACKGROUND

10. In response to Paragraph 10 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

11. In response to Paragraph 11 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

12. In response to Paragraph 12 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

13. In response to Paragraph 13 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

14. In response to Paragraph 14 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

15. In response to Paragraph 15 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

16. In response to Paragraph 16 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

17. In response to Paragraph 17 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

18. In response to Paragraph 18 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

19. In response to Paragraph 19 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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20. In response to Paragraph 20 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

21. In response to Paragraph 21 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

22. In response to Paragraph 22 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

23. In response to Paragraph 23 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

24. In response to Paragraph 24 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

25. In response to Paragraph 25 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

26. In response to Paragraph 26 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

27. In response to Paragraph 27 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

28. In response to Paragraph 28 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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29. In response to Paragraph 29 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

30. In response to Paragraph 30 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

31. In response to Paragraph 31 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

32. In response to Paragraph 32 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein and in each subparagraph therein, and, for that reason, specifically denies each and all of the allegations stated therein.

33. In response to Paragraph 33 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein and in each subparagraph therein, and, for that reason, specifically denies each and all of the allegations stated therein.

34. In response to Paragraph 34 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

35. In response to Paragraph 35 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

36. In response to Paragraph 36 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein and in each subparagraph therein, and, for that reason, specifically denies each and all of the allegations stated therein.

37. In response to Paragraph 37 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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38. In response to Paragraph 38 of the Complaint, Mr. Richter admits that he is a Facebook user. Except as so specifically admitted, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

39. In response to Paragraph 39 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

40. In response to Paragraph 40 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

41. In response to Paragraph 41 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

42. In response to Paragraph 42 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

43. In response to Paragraph 43 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

44. In response to Paragraph 44 of the Complaint, Mr. Richter admits that he used servers and/or computers under his control. Except as so specifically admitted, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

45. In response to Paragraph 45 of the Complaint, Mr. Richter admits that he controlled and administered webpages at Internet domains. Except as so specifically admitted, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of

the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

46. In response to Paragraph 46 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

47. In response to Paragraph 47 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

48. In response to Paragraph 48 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

49. In response to Paragraph 49 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

50. In response to Paragraph 50 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

51. In response to Paragraph 51 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

52. In response to Paragraph 52 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

53. In response to Paragraph 53 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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54. In response to Paragraph 54 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

55. In response to Paragraph 55 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

56. In response to Paragraph 56 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION – VIOLATION OF CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003 ("CAN-SPAM"), 15 U.S.C. § 7701, *et seq.*

57. In response to Paragraph 57 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 56 of the Complaint.

58. In response to Paragraph 58 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

59. In response to Paragraph 59 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

60. In response to Paragraph 60 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

61. In response to Paragraph 61 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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62. In response to Paragraph 62 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

63. In response to Paragraph 63 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

64. In response to Paragraph 64 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

65. In response to Paragraph 65 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

66. In response to Paragraph 66 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

67. In response to Paragraph 67 of the Complaint, Mr. Richter specifically denies that injury, damage, or harm of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

68. In response to Paragraph 68 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

69. In response to Paragraph 69 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result

of any acts or conduct by him, and further specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

70. In response to Paragraph 70 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

SECOND CAUSE OF ACTION – COMPUTER FRAUD AND ABUSE ACT, I8 U.S.C. § 1030, *et seq.*

71. In response to Paragraph 71 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 70 of the Complaint.

72. In response to Paragraph 72 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

73. In response to Paragraph 73 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

74. In response to Paragraph 74 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

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75. In response to Paragraph 75 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

76. In response to Paragraph 76 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

THIRD CAUSE OF ACTION – FRAUD

77. In response to Paragraph 77 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 76 of the Complaint.

78. In response to Paragraph 78 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

79. In response to Paragraph 79 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

80. In response to Paragraph 80 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

81. In response to Paragraph 81 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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82. In response to Paragraph 82 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

83. In response to Paragraph 83 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

84. In response to Paragraph 84 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

85. In response to Paragraph 85 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

86. In response to Paragraph 86 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

87. In response to Paragraph 87 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

88. In response to Paragraph 88 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

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FOURTH CAUSE OF ACTION – TORTIOUS INTERFERENCE WITH CONTRACT

89. In response to Paragraph 89 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 88 of the Complaint.

90. In response to Paragraph 90 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

91. In response to Paragraph 91 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

92. In response to Paragraph 92 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

93. In response to Paragraph 93 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

94. In response to Paragraph 94 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

95. In response to Paragraph 95 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

96. In response to Paragraph 96 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

97. In response to Paragraph 97 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without

knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

98. In response to Paragraph 98 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

FIFTH CAUSE OF ACTION – BREACH OF CONTRACT

99. In response to Paragraph 99 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 98 of the Complaint.

100. In response to Paragraph 100 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

101. In response to Paragraph 101 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

102. In response to Paragraph 102 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

103. In response to Paragraph 103 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

104. In response to Paragraph 104 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

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105. In response to Paragraph 105 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

106. In response to Paragraph 106 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

107. In response to Paragraph 107 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

108. In response to Paragraph 108 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

SIXTH CAUSE OF ACTION – FEDERAL TRADEMARK DILUTION – 15 U.S.C. § 1125(c)

109. In response to Paragraph 109 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 108 of the Complaint.

110. In response to Paragraph 110 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

111. In response to Paragraph 111 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

112. In response to Paragraph 112 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

113. In response to Paragraph 113 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

114. In response to Paragraph 114 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

115. In response to Paragraph 115 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

116. In response to Paragraph 116 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

117. In response to Paragraph 117 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

118. In response to Paragraph 118 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

119. In response to Paragraph 119 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a

result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

120. In response to Paragraph 120 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

SEVENTH CAUSE OF ACTION – FALSE DESIGNATION OF ORIGIN, 15 U.S.C. § 1125(a)

121. In response to Paragraph 121 of the Complaint, Mr. Richter realleges and incorporates by reference, as if fully set forth herein, his responses to Paragraphs 1 through 120 of the Complaint.

122. In response to Paragraph 122 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

123. In response to Paragraph 123 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

124. In response to Paragraph 124 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

125. In response to Paragraph 125 of the Complaint, Mr. Richter is without knowledge or information sufficient to form a belief as to the allegations therein, and, for that reason, specifically denies each and all of the allegations stated therein.

126. In response to Paragraph 126 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so

specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

127. In response to Paragraph 127 of the Complaint, Mr. Richter specifically denies that injury, damage, harm, or loss of any type or description has been caused to Facebook as a result of any acts or conduct by him. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

128. In response to Paragraph 128 of the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so alleged. Except as so specifically denied, Mr. Richter is without knowledge or information sufficient to form a belief as to each and all of the balance of the allegations therein, and, for that reason, specifically denies each and all of the balance of the allegations stated therein.

PRAYER FOR RELIEF

A. In response to Paragraph A of the Prayer for Relief in the Complaint and each of its subparagraphs, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so prayed for.

B. In response to Paragraph B of the Prayer for Relief in the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief or remedy against him as so prayed for.

C. In response to Paragraph C of the Prayer for Relief in the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief against him as so prayed for.

D. In response to Paragraph D of the Prayer for Relief in the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief against him as so prayed for.

E. In response to Paragraph E of the Prayer for Relief in the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief against him as so prayed for.

F. In response to Paragraph F of the Prayer for Relief in the Complaint, Mr. Richter specifically denies that Facebook is entitled to any relief against him as so prayed for.

In further response to Facebook's Prayer for Relief, Mr. Richter specifically denies that there have been any activities by him constituting unlawful or illegal acts as alleged in the Complaint and upon which the Prayer for Relief is based, further specifically denies that injury, damage, or harm of any type or description has been caused to Facebook as a consequence of any acts or conduct by him, and further specifically denies that Facebook is entitled to any relief or remedy against him them as alleged in the Complaint and upon which the Prayer for Relief is based.

In addition to the foregoing responses to the Prayer for Relief, to the responses to Paragraphs 1 through 128, inclusive, of this Answer, Mr. Richter denies each and every other allegation set forth in the Complaint not specifically admitted or denied by him.

AFFIRMATIVE DEFENSES

Without waiving the foregoing Answer and as further, separate, and additional defenses to the allegations set forth in the Complaint, Mr. Richter sets forth the following twenty-six affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein fail to state facts sufficient to constitute claims against Mr. Richter upon which relief can be granted, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

SECOND AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein fail to state facts sufficient to establish that Facebook has been or will be damaged all by reason of any acts or conduct of Mr. Richter, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

THIRD AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein are uncertain, ambiguous, and unintelligible, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

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FOURTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein are the product of characterizations by Facebook of Mr. Richter's conduct which characterizations are nothing more than conjectural and/or subjective, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

FIFTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein all arise based upon advertisements allegedly propagated by Mr. Richter on Facebook.com. Creating advertisements on Facebook.com linking to products and services on the Internet is a common activity that is not only sanctioned by Facebook, but encouraged by it, and the commerce in such advertisements on Facebook.com is profligate and widespread. Therefore, any harm or damage to Facebook from such commonly conducted activity on Facebook.com is a direct result of Facebook's failure or refusal to supervise and/or police such activity. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

SIXTH AFFIRMATIVE DEFENSE

The First Count of the Complaint, Violation of CAN-SPAM (15 U.S.C. § 7701, *et seq*.), mandates that the "adversely affected" requirement of CAN-SPAM be something beyond the mere annoyance of spam and greater than the negligible burdens typically borne by an Internet service provider, such as Facebook, in the ordinary course of its business. Facebook has failed to meet this burden, as set forth in the statute, and as interpreted by a number of courts, including, the Ninth Circuit Court of Appeals. The allegations of harm and the relief sought by Facebook in the First Count and the purported claims for relief therein are the product of characterizations by Facebook which characterizations are nothing more than conjectural and/or subjective and fail to come within the parameters of CAN-SPAM, as judicially interpreted. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the First Count of the Complaint.

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SEVENTH AFFIRMATIVE DEFENSE

The Second Count of the Complaint, Violation of the Computer Fraud and Abuse Act (18 U.S.C. § 1030, *et seq.*), addresses conduct that victimizes computer systems, requires the transmitting of information to a protected computer, and, as a result of such transmission, intentionally causes damage to the protected computer. Facebook alleges damage not to its protected computer system, but, on a spurious, unsupported, and non-specific allegation of intent to defraud, to a violation of its terms of use (Facebook Statement) and its Facebook Pages Terms and Advertising Guidelines. The allegations of harm and the relief sought by Facebook in the Second Count and the purported claims for relief therein are the product of characterizations by Facebook which characterizations are nothing more than conjectural and/or subjective, are founded upon improperly pled allegations of intent to defraud, and fail to come within the parameters of the Computer Fraud and Abuse Act, as judicially interpreted. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Second Count of the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

The Third Count of the Complaint, Fraud, abjectly fails to comply with the pleading requirement for fraud – specificity. The fraud alleged is conduct in connection with creating advertisements on Facebook.com linking to products and services on the Internet. This is a common activity on Facebook.com that is not only sanctioned by Facebook, but encouraged by it, and, in so doing, is unsupervised and not policed by Facebook. The allegations of harm and the relief sought by Facebook in the Third Count and the purported claims for relief therein are the product of characterizations by Facebook which characterizations do not rise to the pleading level of fraud, but are nothing more than conjectural and/or subjective. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Third Count of the Complaint.

NINTH AFFIRMATIVE DEFENSE

The Fourth Count of the Complaint, Tortious Interference With Contract, is contrary to fundamental California law governing the use of such a cause of action. Specifically, if an action is brought for interference with a contractual relationship by one party to a contract, as here Facebook, against another who is also a party to that same contract, as here Mr. Richter, then Facebook's grievance is, in essence, breach of contract. The Fourth Count of the Complaint – suit under the theory of tortious interference with contract, would enable Facebook to tortify a contract claim and thereby recover tort damages to which it is not entitled under California law. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Fourth Count of the Complaint.

TENTH AFFIRMATIVE DEFENSE

To the extent the purported claims of Facebook in the Fifth Count of the Complaint are based upon allegations of written contracts granting or denying rights to Mr. Richter, then, without admitting the existence, validity, or enforceability of such any such written contracts, the claims of Facebook are thereby barred by (i) the fact of its failure to perform all conditions and covenants required to be performed by it under the provisions thereof; or (ii) its failure to satisfy all of the conditions precedent thereto. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Fifth Count of the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

The Sixth Count of the Complaint, Federal Trademark Dilution (15 U.S.C. § 1125(c)), requires as a predicate showing of actual dilution, and such predicate showing is glaringly absent from the Sixth Count of the Complaint. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Sixth Count of the Complaint.

TWELFTH AFFIRMATIVE DEFENSE

The Seventh Count of the Complaint, False Designation of Origin (15 U.S.C. § 1125(a)), requires as a central element that such conduct be likely to cause confusion, mistake, or deception. Other than the bare allegation in the Complaint of such likelihood, Facebook has alleged no facts or circumstances that would demonstrate or corroborate such likelihood. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the Seventh Count of the Complaint.

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THIRTEENTH AFFIRMATIVE DEFENSE

The allegations of the First, Second, Third, Fourth, Sixth, and Seventh Counts of the Complaint do not meet the standards of plausibility pleadings for all Federal civil claims in that each contains allegations that are stated to be on information and belief, are nothing more than formulaic recitations of the elements that each of such Counts address, and/or are bare conclusions that are not entitled to an assumption of truth. The consequence is that the First, Second, Third, Fourth, Sixth, and Seventh Counts of the Complaint are naked assertions devoid of factual enhancement. As such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter under the First, Second, Third, Fourth, Sixth, and Seventh Counts of the Complaint.

FOURTEENTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein fail to state facts sufficient to constitute a cause of action against Mr. Richter upon which relief can be granted, and the Complaint should thereby be dismissed pursuant to Fed.R.Civ.P. Rule 12(b)(6).

FIFTEENTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein fail to state facts sufficient to establish that Facebook has been or will be damaged by reason of any acts of or omissions to act by Mr. Richter, and the Complaint should thereby be dismissed pursuant to Fed.R.Civ.P. Rule 12(b)(6).

SIXTEENTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein fail to state facts sufficient to establish that Facebook is now or will be entitled to any relief against Mr. Richter, and the Complaint should thereby be dismissed pursuant to Fed.R.Civ.P. Rule 12(b)(6).

SEVENTEENTH AFFIRMATIVE DEFENSE

The Complaint and each purported claim for relief therein are uncertain, ambiguous, unintelligible, and the product of conjecture and/or subjective characterizations by Facebook, and the Complaint should thereby be dismissed pursuant to Fed.R.Civ.P. Rule 12(b)(6).

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EIGHTEENTH AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook were the result of its failure to adequately, sufficiently, or reasonably mitigate its damages, and, as such, Facebook is not entitled to any relief from this Court against Mr. Richter.

NINETEENTH AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook resulted from its own acts or omissions, and, as such, Facebook is not entitled to any relief from this Court against Mr. Richter.

TWENTIETH AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook were proximately caused, if at all, by its failure to adequately, sufficiently, or reasonably mitigate the circumstances for which it now seeks such damages, and by the doctrine of avoidable consequences, and, as such, Facebook is not entitled to any relief from this Court against Mr. Richter.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook resulted from its own carelessness and/or negligence, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook were proximately caused, if at all, by the acts of persons and/or entities other than Mr. Richter, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The purported damages, if any, allegedly suffered by Facebook are speculative, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The purported damages alleged by Facebook are barred by the doctrine of assumption of risk, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Any acts by Mr. Richter as alleged in the Complaint were done with an innocent intent, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

Any recovery by Facebook under the Complaint is barred because the Complaint was commenced by Facebook against Mr. Richter in bad faith, and, as such, Facebook is not entitled to any remedy and/or relief from this Court against Mr. Richter.

Mr. Richter reserves the right to further amend this Answer in order to assert any and all additional defenses as they may become available or apparent during discovery and preparation for trial.

WHEREFORE, Mr. Richter prays for judgment as follows:

1. That the relief sought in the Complaint against him be denied;
2. That Facebook take nothing from Mr. Richter by reason of the Complaint;
3. That the Complaint be dismissed in its entirety with prejudice;
4. That Mr. Richter be awarded the attorneys' fees and costs incurred by him in defending this action;
5. That Mr. Richter be granted his costs of suit; and
6. For such other and further relief as the Court may deem just and proper.

DATED: December 6, 2010 BUSINESS & TECHNOLOGY LAW GROUP

By: */s/ Stephen N. Hollman*
Stephen N. Hollman,
Attorneys for Defendant

DEMAND FOR JURY TRIAL

Mr. Richter respectfully demands a jury trial.

DATED: December 6, 2010 BUSINESS & TECHNOLOGY LAW GROUP

By: */s/ Stephen N. Hollman*
Stephen N. Hollman,
Attorneys for Defendant